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**UNITED STATES DISTRICT COURT**  
**DISTRICT OF NEVADA**

BRIAN HERTZ, an individual,  
Plaintiff,  
vs.  
ORACLE AMERICA, INC., a Foreign  
Corporation,  
Defendant.

CASE NO.: 2:25-cv-00360-APG-DJA  
**STIPULATION TO ARBITRATE;  
ORDER**

Plaintiff BRIAN HERTZ (“Plaintiff”) and Defendant ORACLE AMERICA, INC. (“Defendant”), by and through their respective counsel below (collectively referred to as the “Parties”), hereby stipulate to the following:

WHEREAS, on February 1, 2023, Plaintiff executed an “Employment Agreement & Mutual Agreement to Arbitrate” (the “Arbitration Agreement”) that provided for mutual and binding arbitration of employment disputes, a copy of which is attached as **Exhibit “A;”**

WHEREAS, Plaintiff filed the Complaint in the United States District Court of Nevada entitled Brian Hertz, an individual vs. Oracle America, Inc., a foreign corporation, Case No. 2:25-cv-00360-APG-DJA (“the Action”), on February 25, 2025, alleging claims arising from his employment with Defendant, specifically age discrimination and retaliation in violation of State and Federal law. (ECF No. 1.);

WHEREAS, Defendant was served with the Action on February 26, 2025. (ECF No. 6);

WHEREAS, Plaintiff and Defendant have agreed that all claims in the Action are governed by the Arbitration Agreement; and

WHEREAS, the Plaintiff and Defendant have agreed that the Action shall be submitted to arbitration pursuant to the terms of the Arbitration Agreement with either AAA or JAMS and that this matter should be stayed until an arbitration is had in accordance with the Arbitration Agreement.

IT IS HEREBY STIPULATED AND AGREED that the proceedings in Case No. 2:25-cv-00360-APG-DJA should be stayed pursuant to 9 U.S.C. § 3, and this Court shall retain jurisdiction over this Action pending the conclusion of the arbitration with either AAA or JAMS.

Dated this 11<sup>th</sup> day of April, 2025.

**HKM EMPLOYMENT ATTORNEYS LLP**

By: Michael Arata

Michael Arata  
Nevada Bar No. 11902  
101 Convention Center Drive, Suite 600  
Las Vegas, NV 89109  
*Attorneys for Plaintiff,*  
*Brian Hertz*

Dated this 11<sup>th</sup> day of April, 2025.

**OGLETREE, DEAKINS, NASH, SMOAK & STEWART, P.C.**

By: Kathryn C. Newman

Kathryn C. Newman  
Nevada Bar No. 13733  
10801 W. Charleston Boulevard, Suite 500  
Las Vegas, NV 89135  
*Attorneys for Defendant,*  
*Oracle America, Inc.*

### ORDER

Pursuant to the Parties' stipulation, and good cause being shown, the Court hereby orders that the proceedings in this action shall be stayed pursuant to 9 U.S.C. § 3, and this matter is ordered to arbitration in accordance with the Arbitration Agreement.

IT IS SO ORDERED:

Dated: April 16, 2025



ANDREW P. GORDON  
CHIEF UNITED STATES DISTRICT JUDGE

# **EXHIBIT A**



The future starts now

## Employment Agreement & Mutual Agreement to Arbitrate

Please read this document carefully before you agree to the terms of the two agreements below by signing or electronically accepting them where indicated. The Employment Agreement sets forth certain important benefits, terms and conditions related to your employment with Oracle or an Oracle affiliate, subsidiary or related entity, including but not limited to Oracle America, Inc. ("Oracle"). The Mutual Agreement to Arbitrate sets forth the mutual agreement between you and Oracle to arbitrate certain disputes or claims arising out of or related to your Oracle employment and to waive rights to a trial or hearing before a court or jury. You may wish to consult an attorney prior to accepting the Agreements below.

### Employment Agreement

#### Proprietary Information

Oracle's proprietary rights and confidential information are among the company's most important assets. In addition to accepting this Agreement as a condition of employment, you also must accept the Proprietary Information Agreement included in the New Hire Offer Packet.

#### Oracle Policies

Your adherence to the [Oracle Code of Ethics and Business Conduct](https://www.oracle.com/assets/cebc-176732.pdf), available for your review at <https://www.oracle.com/assets/cebc-176732.pdf> is vital to Oracle and to your success at Oracle. When you accept this Agreement, you are agreeing to thoroughly familiarize yourself with the Oracle Code of Ethics and Business Conduct and you are agreeing to abide by it. You also agree to take Oracle's Ethics and Business Conduct course, available on-line through Oracle's intranet. In addition, when you accept this Agreement, you are acknowledging that you have read the letter addressing Health and Safety at Oracle included in the Benefits and Policies Packet. Oracle maintains a [Global Conflict of Interest Policy](http://www.oracle.com/assets/coip-176735.pdf), available at <http://www.oracle.com/assets/coip-176735.pdf>. You should review the policy and disclose any potential conflicts to Oracle for review prior to the start of your employment. Oracle also maintains an Internal Privacy Policy, which describes Oracle's privacy practices for employment-related information, including personal information that may be collected, how and where personal information is processed, to whom personal information may be provided, and how you may access and rectify personal information about you. You agree to abide by the terms of Oracle's Internal Privacy Policy in effect during your employment; a current copy of such policy is also included in the Benefits and Policies Packet.

Policies applicable to employees are available in the Oracle Employee Handbook. You agree, after beginning employment, to access the Employee Handbook and thoroughly familiarize yourself with Oracle policies and to abide by them. Additionally, from time to time, Oracle will communicate important information about its policies by way of electronic mail notification and/or the Oracle intranet. By accepting this agreement, you agree to thoroughly review these policy communications and to abide by them. Oracle policies applicable to employees are subject to change.

Oracle is a government contractor, and, as such, certain federal, state, and local laws may place prohibitions or other restrictions on the ability of former government workers, and/or relatives of current or former government workers, to be employed by or to perform certain work on behalf of Oracle. By signing or electronically accepting below, you are affirming that you have disclosed all such relationships to Oracle and that your employment with Oracle, and any work you perform while employed by Oracle, will not conflict with any such prohibitions or restrictions.

## **Employment Eligibility**

In order to comply with the Immigration Reform and Control Act of 1986, the federal government requires the company to examine documents which prove your legal right to work in the United States. Please see the Verification of Eligibility for Employment information which is a part of the Personal Information Packet.

## **Benefits**

Oracle offers its employees a comprehensive benefits package, including medical, dental, vision, life, disability, 401(k) plan, employee stock purchase plan, dependent care and health care flexible spending accounts, and an educational reimbursement program. Benefits plans and programs are subject to change by Oracle or benefits providers. Employee contributions for Oracle's benefit plans may be required. The details of these plans are included in the New Hire Offer Packet and/or are available on the Oracle intranet. You understand that you must make your benefits elections within the limited time period set forth in the communication accompanying your personal identification number that you will receive after beginning employment.

By accepting this Agreement, you authorize Oracle to deduct from your compensation any and all contributions associated with your health and welfare benefit elections, the 401(k) plan, the employee stock purchase plan, or any other benefit offered by Oracle in which you participate and for which an employee contribution is required.

Your starting compensation, position and other terms and conditions related to your employment are set forth in the offer letter you received. By accepting this Agreement, you also are agreeing to the terms and conditions set forth in the offer letter, which are incorporated herein. Oral or written representations contradicting or supplementing the terms of the offer letter or this Agreement are not valid.

## At-Will Employment

Employment at Oracle is at-will for all employees other than those based in Montana who have worked for Oracle for more than six months. The company makes no express or implied commitment that your employment will have a minimum or fixed term, that Oracle may take adverse employment action only for cause or that your employment is terminable only for cause. Either you or Oracle may terminate the employment relationship at any time for any reason. Additionally, Oracle may take any other employment action at any time for any reason. No one at Oracle may make, unless specifically authorized in writing by Oracle's Executive Vice President of Human Resources (or global head of Human Resources if there is no Executive Vice President of Human Resources), any promise, express or implied, that employment is for any fixed term or that cause is required for the termination of or change in the employment relationship.

## Equal Employment Opportunity and Escalation Process

Oracle believes that all employees should be treated fairly and equitably in conformance with its Equal Employment Opportunity policy. We make employment decisions without regard to sex, gender, race, color, religious creed, age, mental or physical disability, medical condition, genetic information, national origin, ancestry, marital status, military and protected veteran status, sexual orientation, gender identity, gender expression, or any other characteristic protected under federal or state law or local ordinance.

Our commitment to this policy applies to every phase of the employment relationship, and we make every effort to comply with this policy. If you feel you have not been treated fairly in some way, we encourage you to contact your HR manager or use the [Oracle Integrity Helpline](https://secure.ethicspoint.com/domain/media/en/gui/31053/index.html) (<https://secure.ethicspoint.com/domain/media/en/gui/31053/index.html>) to report your concern. The company takes such matters very seriously and reporting your claims internally allows us to work with you to investigate and try to resolve your issues.

## Mutual Agreement to Arbitrate

You and Oracle understand and agree that, except as set forth below, and to the maximum extent permitted by law, any dispute or claim between you and Oracle (as Oracle is defined below) asserted or arising after you accept this Mutual Agreement to Arbitrate, which dispute or claim arises out of or is related to your employment or the termination of that employment, including but not limited to claims of discrimination, harassment, retaliation, and unpaid wages, will be resolved by final and binding arbitration. No other forum for dispute resolution will be available to either party, except as to those claims identified below. The decision of the arbitrator shall be final and binding on both you and Oracle and it shall be enforceable by any court having proper jurisdiction. This Mutual Agreement to Arbitrate shall be binding on any successor in interest or affiliate of Oracle or you. As used in this Mutual Agreement to Arbitrate, you and Oracle agree that the term "Oracle" shall include Oracle America, Inc., Oracle Corporation, entities acquired by Oracle America, Inc. or Oracle Corporation including any previous employer that is acquired, affiliates, subsidiaries, successors, assigns, officers, directors, employees, and agents of the foregoing, and anyone acting on behalf of any of the foregoing.

Arbitration proceedings under this Mutual Agreement to Arbitrate shall be conducted pursuant to the Federal Arbitration Act, and in accordance with the Employment Arbitration Rules and Mediation Procedures of the American Arbitration Association ("AAA") (which can be found on AAA's website – <http://www.adr.org>) or the Employment Arbitration Rules and Procedures adopted by Judicial Arbitration & Mediation Services ("JAMS") (which can be found on JAMS's website -- <http://www.jamsadr.com>). In the event of any conflict or inconsistency between this Mutual Agreement to Arbitrate and the Employment Arbitration Rules and Mediation Procedures of the AAA or Employment Arbitration Rules and Procedures adopted by JAMS, the terms of this Mutual Agreement to Arbitrate shall govern. Except as set forth below, the arbitrator will have all the powers a judge would have in dealing with any question or dispute that may arise before, during and after the arbitration. Unless you and Oracle otherwise agree in writing, Arbitration proceedings will be conducted in the state where you principally physically worked when the claim arose. The substantive law of that state shall be applied to the issues raised in the dispute.

- **Claims Not Covered**

The following claims are not subject to arbitration under this Mutual Agreement to Arbitrate:

1. Claims under Title VII of the Civil Rights Act of 1964 or any tort related to or arising out of sexual assault or harassment, including assault and battery, intentional infliction of emotional distress, false imprisonment, or negligent hiring, supervision, or retention;



2. Claims for benefits under the workers' compensation, unemployment insurance and state disability insurance laws, and government administrative agency claims that are not legally subject to an agreement to arbitrate between an employer and employee (proceedings involving the dispute or claims between you and Oracle following a government administrative agency process involving the dispute or claim are subject to arbitration under this agreement); and
3. Claims by you or by Oracle for temporary restraining orders or preliminary injunctions ("temporary equitable relief") in cases in which such temporary equitable relief would be otherwise authorized by law. In such cases where temporary equitable relief is sought, the adjudication of the merits of the action will occur in front of, and will be decided by, the arbitrator, who will have the same ability to order legal or equitable remedies as would a court with jurisdiction.

## Class Action Waiver

To the full extent permitted by law, any claim by you or Oracle which is subject to arbitration under the terms of this Mutual Agreement to Arbitrate must be brought in the party's individual capacity and not as a plaintiff, or class member or aggrieved employee in any purported class, collective, representative, multiple plaintiffs or similar non-individual proceeding (collectively "Class Action"). You and Oracle expressly waive, to the full extent permitted by law, any and all rights to bring, participate in or maintain in any forum any Class Action regarding or raising claims which are subject to arbitration under the terms of this Mutual Agreement to Arbitrate. The arbitrator shall not have authority to combine or aggregate similar claims, or conduct any Class Action or make an award to any person or entity not a party to the arbitration. This paragraph is referred to as the "Class Action Waiver."

Any claim that all or part of the Class Action Waiver is invalid, unenforceable, contrary to public policy or any law, or inapplicable to a claim brought in other than your or the relevant Oracle entity's individual capacity, may be determined only by a court of competent jurisdiction and not by an arbitrator.

## Costs

Unless not required by law or applicable arbitration rules, Oracle will bear the costs of the arbitrator's fee and all other costs related to arbitration, to the full extent such costs are not expenses that you would be required to bear if you were bringing an action in a court of law. If Oracle is not required by law to pay the arbitrator's fee or other costs related to the arbitration, they will be split equally between you and Oracle. You shall be responsible for paying as applicable to the Arbitrator or JAMS or AAA the equivalent of any court or filing fee(s) you would be required to pay to a court if you were bringing an action in court.

You and Oracle shall each bear their own attorneys' fees and costs incurred in connection with an arbitration, and the arbitrator will not have authority to award



attorneys' fees and/or costs unless a statute at issue in the dispute, or other applicable law, authorizes the award of attorneys' fees and/or costs to the prevailing party, in which case the arbitrator shall have the authority to make an award of attorneys' fees and/or costs as permitted by the applicable statute or law.

## Consideration

You understand and acknowledge that you are offered employment in consideration of this Mutual Agreement to Arbitrate. In addition, the mutual promises by Oracle and by you to resolve claims by arbitration in accordance with the provisions of this Mutual Agreement to Arbitrate, rather than through the courts, provide consideration for the mutual promises herein.

## Knowing and Voluntary Agreement; Complete Agreement

You understand and agree that you have been advised to consult with an attorney of your own choosing regarding this Mutual Agreement to Arbitrate, and you have had an opportunity to do so.

**YOU FURTHER UNDERSTAND AND AGREE THAT YOU HAVE READ THIS MUTUAL AGREEMENT TO ARBITRATE CAREFULLY. BY ACCEPTING IT, AS SET FORTH HEREIN, YOU ARE 1) EXPRESSLY WAIVING ANY AND ALL RIGHTS WHICH YOU MAY NOW OR IN THE FUTURE HAVE TO A TRIAL OR HEARING BEFORE A COURT OR JURY ON ANY AND ALL DISPUTES AND CLAIMS SUBJECT TO ARBITRATION UNDER THIS AGREEMENT, 2) AGREEING TO ARBITRATE PURSUANT TO THE TERMS OF THIS MUTUAL AGREEMENT TO ARBITRATE, AND 3) AGREEING TO THE TERMS OF THE CLASS ACTION WAIVER ABOVE.**

This Mutual Agreement to Arbitrate contains the complete agreement between Oracle and you regarding the subject of arbitration, and supersedes and replaces any and all prior written, oral or other types of representations and agreements between Oracle and you regarding the subjects of arbitration and dispute resolution. This Mutual Agreement to Arbitrate constitutes a new agreement between Oracle and you on the subject of arbitration.

## Severability

Except as set forth below, if any portion of this Mutual Agreement to Arbitrate is for any reason, held invalid or unenforceable, or contrary to public policy or any law, the remainder of the Mutual Agreement to Arbitrate shall not be affected by such invalidity or unenforceability, but shall remain in full force and effect, as if the invalid or unenforceable term or portion thereof had not existed within this Mutual Agreement to Arbitrate. If the Class Action Waiver is determined to be invalid, unenforceable, contrary to public policy or any law, or inapplicable to an attempted Class Action brought by you or Oracle, no part of this Mutual Agreement to Arbitrate shall be enforceable between the Parties in any actual or attempted Class Action.

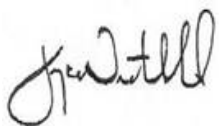
## Modification

This Mutual Agreement to Arbitrate may be modified or replaced by a new or different Agreement or different terms only if in a writing, expressly stating that it is a modification or new agreement that replaces or supersedes this Mutual Agreement to Arbitrate. Such modification or replacement document must be signed or electronically accepted by 1) you and 2) Oracle's Executive Vice President of Human Resources (or global head of Human Resources if there is no Executive Vice President of Human Resources), or by a person to whom authority to modify or replace this Agreement or part hereof has been delegated in writing by such EVP or global head of Human Resources.

## Acceptance

By e-signing this document, you are acknowledging that you have read and that you understand every provision of the Employment Agreement and the Mutual Agreement to Arbitrate, and that, in consideration for your employment at Oracle, and the terms of this Agreement, including but not limited to the Mutual Agreement to Arbitrate, you agree to abide by the terms of each.

FOR ORACLE AMERICA, INC.:

A handwritten signature in black ink, appearing to read "Joyce Westerdahl".

Joyce Westerdahl  
Executive Vice President, Human Resources

### **ACKNOWLEDGED AND ACCEPTED:**

**Signer Name: Brian Hertz**

**Email: brianhertz@hotmail.com**

**Dated: 2023-02-01**